



PUBLIC NOTICE

Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

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NOTICE OF ORIGINAL

DA 05-1929
Released: July 1, 2005

DOMESTIC SECTION 214 APPLICATION FILED FOR TRANSFER OF CONTROL AND ACQUISITION OF ASSETS OF AKRON CANTON COMMUNICATIONS, INC. TO FIRST COMMUNICATIONS LLC

STREAMLINED PLEADING CYCLE ESTABLISHED

WC Docket No. 05-217

Comments Due: July 15, 2005
Reply Comments Due: July 22, 2005

On June 10, 2005, First Communications LLC ("First Communications") filed an application, pursuant to section 63.04 of the Commission's rules,¹ requesting authority to transfer control of Akron Canton Communications, Inc. ("Akron Canton") to First Communications.²

Applicants assert that this transaction is entitled to presumptive streamlined treatment pursuant to section 63.03(b)(2)(i) of the Commission's rules because, after closing, (i) First Communications will have a market share in the interstate, interexchange market of less than 10 percent; (ii) First Communications will provide competitive services exclusively in areas served by a dominant local carrier not a party to the proposed transaction; and (iii) First Communications and Akron Canton are not currently dominant with respect to any domestic service, and will not become dominant with respect to any domestic service after consummation of the proposed transaction.³

Akron Canton, an Ohio corporation, provides local and long distance telecommunications services primarily to customers in the Akron/Canton, Ohio area. Akron Canton operates under

¹ 47 C.F.R. § 63.04; *see* 47 U.S.C. § 214.

² First Communications filed an amendment to its application on June 27, 2005 with additional information. First Communications also filed an application for transfer of control associated with authorization for international services Section 214 authority to provide international services. Any action on this domestic 214 application is without prejudice to Commission action on other related, pending applications.

³ 47 C.F.R. § 63.03(b)(2)(i).

the name "ACCtion Communications," "Akron Canton Communications," and "Akron Canton Connection." The following people, both U.S. citizens, currently hold a 10% or greater equity interest in Akron Canton: John Horning (50%) and Therese Horning (50%).

First Communications, an Ohio limited liability company, provides local, private line, and long distance services to both business and residential customers in several states in the U.S. Currently, First Communications provides telecommunications services to customers located primarily in Florida, Ohio, Indiana, and Michigan. In addition to traditional local and long distance services, First Communications' services include, toll-free services, conference calling packages, calling cards, prepaid calling cards, Internet access, and dedicated and private line services. First Communications' telecommunications services are provided primarily on a resale basis using facilities and switches that are owned and operated by other telecommunications carriers. The following entities, all of U.S. citizenship, hold a 10% or greater equity ownership interest in First Communications: McKinley Communications, LLC (51%); First Energy Corp. (31.85%); and Boich Investment Group, Ltd. (17.15%). Marbel Investments, LLC, a U.S. entity, holds an 80% ownership interest and control of McKinley Communications, LLC. Marbel Investments, LLC is owned in equal shares by the following people, all U.S. citizens: Marsh Belden, Timothy Belden, Susan Belden, and Katherine Belden. Wayne Boich, Sr., a U.S. citizen, holds 100% of the ownership interest in Boich Investment Group, Ltd. No other shareholder of McKinley Communications, LLC or First Energy Corp. holds a 10% or great ownership interest in First Communications.

First Communications and Akron Canton have reached an Agreement providing for First Communications' acquisition of substantially all of the assets of Akron Canton, including Akron Canton's customers, which are to be transferred immediately to First Communications upon closing. First Communications will provide local and long distance telecommunications services to those customers directly. First Communications has previously been providing the underlying network transmission service to Akron Canton and its customers.

First Communications asserts that the proposed transaction will serve the public interest because it will better ensure that First Communications remains a viable long-term competitor in the telecommunications marketplace. Moreover, First Communications emphasizes that, following the proposed transfer, the former Akron Canton customers will continue to receive services from an experienced and qualified carrier, which will be consistent with the existing rates, terms, and conditions that they received prior to the transfer. Furthermore, First Communications will ensure that the customers are sufficiently notified of the transaction and their rights.

GENERAL INFORMATION

The transfer of control identified herein has been found, upon initial review, to be acceptable for filing as a streamlined application. The Commission reserves the right to return any application if, upon further examination, it is determined to be defective and not in conformance with the Commission's rules and policies. Interested parties may file **comments on**

or before July 15, 2005 and reply comments on or before July 22, 2005.⁴ Unless otherwise notified by the Commission, this application will be deemed granted on the 31st day after the date of this notice.⁵ Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 Fed. Reg. 24121 (1998).

Comments filed through the ECFS can be sent as an electronic file via the Internet to <<http://www.fcc.gov/e-file/ecfs.html>>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send e-mail to ecfs@fcc.gov, and should include the following words in the subject line "get form <your e-mail address>." A sample form and directions will be sent in reply.

Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Natek, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, S.W., Washington, D.C. 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

In addition, one copy of each pleading must be sent to each of the following:

- (1) The Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554; e-mail: www.bcpweb.com; phone: 202-488-5300 fax: 202-488-5563;

⁴ See 47 C.F.R. § 63.03(a).

⁵ Such authorization is conditioned upon receipt of any other necessary approvals from the Commission in connection with the proposed transaction.

- (2) Tracey Wilson-Parker, Competition Policy Division, Wireline Competition Bureau, 445 12th Street, S.W., Room 5-C437, Washington, D.C. 20554; e-mail: tracey.wilson-parker@fcc.gov;
- (3) Adam Kirschenbaum, Competition Policy Division, Wireline Competition Bureau, 445 12th Street, S.W., Room 5-C211, Washington, D.C. 20554; e-mail: adam.kirschenbaum@fcc.gov;
- (4) Renee R. Crittendon, Competition Policy Division, Wireline Competition Bureau, 445 12th Street, S.W., Room 5-C311, Washington, D.C. 20554; e-mail: renee.crittendon@fcc.gov;
- (5) Susan O'Connell, Policy Division, International Bureau, 445 12th Street, S.W., Room 7-B544, Washington, D.C. 20554; email: susan.o'connell@fcc.gov; and
- (6) James Bird, Office of General Counsel, 445 12th Street, S.W., Room 8-C740, Washington, D.C. 20554; e-mail: james.bird@fcc.gov.

Filings and comments are also available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW, Room CY-A257, Washington, D.C. 20554. They may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554, telephone: 202-488-5300, fax: 202-488-5563, or via e-mail www.bcpweb.com.

For further information, please contact Tracey Wilson-Parker at (202) 418-1394, or Adam Kirschenbaum at (202) 418-7280.

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